

SUPERIOR COURT OF WASHINGTON
COUNTY OF KING

VIX TECHNOLOGY USA, Inc.,

Plaintiff,

v.

CENTRAL PUGET SOUND REGIONAL
TRANSIT AUTHORITY (dba SOUND
TRANSIT) and KEVIN WALLACE,

Defendants.

No. 18-2-19467-9

DECLARATION OF KEVIN
WALLACE IN OPPOSITION TO THE
MOTION FOR A TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION

I, Kevin Wallace, declare as follows:

1. I am over the age of 18, and am otherwise competent to testify to all matters herein,
and make the following statements based on my personal knowledge.

2. I live in Seattle, Wash., and often ride on Sound Transit Link light rail.

3. On January 13, 2018, I made a public records request to Sound Transit for all
“guidebooks, policy manuals and similar materials regularly provided to persons designated as fare
enforcement monitors by Sound Transit under RCW 81.112.210.” I chose to handle the request
through MuckRock, a non-profit news site that allows journalists and other citizens to request
and share government documents publicly. Attached as Exhibit A is a true and correct copy of

1 my records request and related correspondence with Sound Transit, as shown on MuckRock.com.

2 4. In response to my January request, Sound Transit produced 13 “standard operating
3 procedures” for fare enforcement officers. These documents outlined procedures for basic on-board
4 train inspections, proof of payment inspection techniques, writing and issuing warnings and
5 citations, filing a third-degree theft case, handling juveniles, confiscating university and college
6 passes, fare inspection rules, and non-discrimination, among other duties.

7 5. One of the produced documents, SOP-SEC 10-21, explains “the basics of inspections
8 where proof of payment is presented in the form of an ORCA card.” It defines an ORCA card as “a
9 plastic card that has an electronic chip that is used for fare payment.” The document says: “If the
10 ORCA card has an E-purse and is not tapped or has no value loaded on it, this constitutes a
11 violation of the Proof of Payment section of RCW 81.112.220.” It directs the enforcement officer
12 to scan the passenger’s ORCA Card with a “handheld ORCA App to determine if the card was
13 tapped prior to boarding.” Attached as Exhibit B is a true and correct copy of the procedure for
14 inspecting ORCA card payments.

15 6. Another document produced to me, SOP-SEC 10-20, “outlines how Fare Inspections
16 are monitored to assure discrimination does not occur.” It states, “Use of discretion is further
17 outlined in SOP-SEC 10-07.” Attached as Exhibit C is a true and correct copy of the
18 nondiscrimination procedure for Sound Transit’s fare enforcement officers.

19 7. After reviewing the records produced by Sound Transit, on March 22, 2018, I sent
20 the following email to the records officer:

21 Thanks for your help with this -- these policies are exactly what I was looking for!

22 However, I seem to be missing at least one document: SOP-SEC 10-07 ("Use of
23 Discretion", referenced in 10-20). I am in receipt of the following:

24 * 10-01 through 10-06

* 10-08

1 * 10-15
2 * 10-17
3 * 10-19 through 10-21
4 * 10-25

5 Could you provide me with 10-07 and confirm that with it included, the above list is
6 indeed complete?

7 Thanks!

8 See Exhibit A, pp. 3-4.

9 8. After making two more inquiries about the missing “use of discretion” policy on
10 April 6 and April 25, 2018, I received the following response from Sound Transit Project
11 Coordinator Leigh Tennison:

12 We have met with security staff and 10-7 is no longer included in the SOPs. It refers
13 to a process used when fare enforcement officers manually issued tickets. This
14 process is now done automatically through the hand held devices and therefore 10-7
15 is no longer included. The other gaps in the numbering are due to the fact that these
16 numbers were held open for future sections.

17 This completes our response and we will close this request file.

18 See Exhibit A, p. 6.

19 9. I was concerned by Ms. Tennison’s suggestion that officer discretion had been
20 replaced with machines acting “automatically.” I was especially alarmed because, according to the
21 procedures, transit users can be charged with theft based on information on the hand-held machines.

22 10. In order to learn how the hand-held devices “automatically” exercised the discretion
23 that was previously vested in fare enforcement officers, I made another records request on May 5,
24 2018 for the software applications referenced in the enforcement procedures. Specifically, I asked
25 for:

26 A copy of the latest version of each of the following applications used on Fare
27 Enforcement handheld devices:
28 - Orca Inspection
29 - Officer Android

1 Attached as Exhibit D is a true and correct copy of my May 5 request and related correspondence.

2 11. On May 11, 2018, I received the following response from Sound Transit's Ms.
3 Tennison, via Muckrock:

4 DRAFT-for your approval. This is due today or Monday at the latest. We don't have
5 an "officer android" app. The ORCA Inspection is an android app.

6 This will acknowledge your request for a copy of the latest version of each of the
7 following applications used on fare enforcement handheld devices:

8 -ORCA Inspection
9 -Officer Android

10 We received your request on May 7, 2018.

11 The application used to scan ORCA cards is called "ORCA Inspection." It is an
12 Android version. We are unable to provide you with this app because it is exempt
13 under RCW 42.56.270(1). This completes our response and we will close this
14 request file.

15 See Exhibit D, pp. 1-2. Although the first word was "DRAFT," I understood the response to be
16 official. The citation to an exemption, and the closing of the request, indicated to me that Sound
17 Transit had done legal research and formed a position against disclosure. Accordingly, I replied
18 later that day as follows:

19 Thank you for the response.

20 I appeal. RCW 42.56.270(1) only exempts disclosure of software when such
21 disclosure "would produce private gain and public loss" which is not the case here --
22 the released records are being made available to the public. They are being requested
23 in the interest of increased transparency around the fare enforcement process, not for
24 private gain of any kind. On 4/25, in response to request PD18-030, you indicated to
me that fare enforcement policy SOP-SEC 10-07 has been superseded by a process
in the application that I am now requesting. Fare enforcement policy is a matter of
public record, even when it's embodied in software.

If "Officer Android" does not exist, I am happy to exclude it from my request.
However, SOP-SEC 10-17 ("FARE ENFORCEMENT SOP: PANASONIC
HANDHELD TABLET FZ-X1") indicates that it is policy to install an application
with this name on all fare enforcement handheld devices.

1 See Exhibit D, pp. 2-3.

2 12. Three days after objecting to the records denial, I received an email from a Sound
3 Transit paralegal, Q'Deene Nagasawa, claiming that Ms. Tennison's email was sent inadvertently
4 and that her own "initial review" suggested that RCW 42.56.270(1) did not apply. She stated she
5 needed more time "to review." See Exhibit D, p. 3.

6 13. On June 11, Ms. Nagasawa informed me that an unnamed "third party" would be
7 notified of my request, and that the notice process would take "3 to 4 weeks." On July 23, she
8 wrote:

9 The third party has requested and we have extended the time for the third party to
10 obtain a temporary restraining order for an additional 2 weeks. We will contact you
again in 2 weeks.

11 See Exhibit D, pp. 5-6.

12 14. Finally, on August 13, 2018, I received the following email from Sound Transit
13 attorney James Niemer:

14 I am Senior Legal Counsel for Sound Transit. As Q'Deene Nasagawa informed you,
15 Vix Technology U.S.A., Inc. has initiated litigation seeking to enjoin Sound Transit
16 from producing certain documents that would otherwise be responsive to one of your
17 public disclosure requests. Copies of the pleadings filed thus far are attached for
your convenience. Please be advised that in light of the pending litigation, Sound
Transit will take no further action on your public disclosure request until the Court
has ruled on Vix's motions.

18 If you have any questions of Sound Transit in this regard, please contact the
19 undersigned.

20 See Exhibit D, p. 8.

21 15. I was never told the final results of Ms. Nagasawa's additional review. In fact, after
22 initially taking inconsistent positions and then promising more review, Sound Transit never told me
23 its final determination about whether the requested records are exempt from disclosure. I
24 eventually learned through this lawsuit that Sound Transit opposes disclosure.

1 16. I believe the general public, like me, has an interest in the requested records. If
2 humans were still carrying out Sound Transit's "use of discretion" procedures, nobody would
3 question that they should be public. Software, in general, is a way of codifying procedures. The
4 ORCA Inspection and Officer Android software applications are carrying out procedures that used
5 to be performed by humans. I believe it is important for the public to know whether these
6 applications are actually preventing discrimination in fare enforcement. More generally, taxpayers
7 and transit riders like me are interested in how enforcement by machines works.

8 17. I'm a software engineer myself. I disagree that releasing software, by itself, makes it
9 insecure. If the software is competently written and if security keys are redacted, confidential
10 financial information would be protected.

11
12 I declare under penalty of perjury under the laws of the State of Washington that the foregoing is
13 true and correct.

14 DATED this 30th day of August 2018, at Seattle, Washington.

15
16 

17 Kevin Wallace

18
19 Submitted by:

20 

21 Katherine A. George, WSBA 36288
22 Johnston George LLP
23 126 34th Ave., Suite 307
24 Seattle, Wash. 98122
Phone 206 832-1820
Fax 206 770-6393
kathy@johnstongeorge.com

EXHIBIT A

From: Kevin Wallace

01/13/2018

Subject: Public Records Request: soundtransit fare enforcement manuals and policies

Email

To Whom It May Concern:

Pursuant to RCW Ch. 42.56 (Public Records Act), I hereby request the following records:

All guidebooks, policy manuals, and similar materials regularly provided to persons designated as fare enforcement monitors by SoundTransit under RCW 81.112.210.

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 5 business days, as the statute requires.

Sincerely,

Kevin Wallace

From: Central Puget Sound Regional Transit Authority

01/22/2018

Subject: MuckRock News PD18-030;

Email

This will acknowledge receipt of your request for all guidebooks, policy manuals, and similar materials regularly provided to persons designated as fare enforcement officers by Sound Transit under RCW 81.112.210.

Given our staffs' workload and the number of requests we are currently handling, we estimate that it will take another 6-7 weeks to identify and gather responsive records. We will contact you once we have completed our search.

Sincerely,
Q'Deene Nagasawa

Q'Deene Nagasawa
Paralegal | Public Records Officer
Legal Department
Sound Transit
401 South Jackson
Seattle, WA 98104
(206) 689-4924
Fax: (206) 398-5222

Connect with us
[facebook.com/SoundTransit](http://www.facebook.com/SoundTransit)<<http://www.facebook.com/SoundTransit>>
[twitter.com/SoundTransit](http://www.twitter.com/SoundTransit)<<http://www.twitter.com/SoundTransit>>
[cid:image001.png@01CFB081.D1850820]

From: Muckrock Staff

03/20/2018

Subject: RE: Washington Public Records Act Request: soundtransit fare enforcement manuals and policies

Email

To Whom It May Concern:

I'm following up on the following Washington Public Records Act request, copied below, and originally submitted on Jan. 13, 2018. You had previously indicated that it would be completed on March 12, 2018. I wanted to check on the status of my request, and to see if there was a new estimated completion date.

Thanks for your help, and let me know if further clarification is needed.

From: Central Puget Sound Regional Transit Authority

03/21/2018

Subject: RE: MuckRock News PD18-030;

Email

This is in response to your request for information given fare enforcement officers by Sound Transit under RCW 81.112.210 as acknowledged below. Attached are 13 files pertaining fare enforcement that are responsive to your request. This completes our response and we will close this request file.

Sincerely,

Leigh Tennison
Project Coordinator
Sound Transit
T: 206.903.7104

Connect with us

[Facebook.com/SoundTransit](https://www.facebook.com/SoundTransit/)<<https://www.facebook.com/SoundTransit/>>

[Twitter.com/SoundTransit](https://twitter.com/soundtransit)<<https://twitter.com/soundtransit>>

[cid:image002.png@01D3C12A.529E0030]

03/22/2018

Subject: RE: Washington Public Records Act Request: soundtransit fare enforcement manuals and policies

Email

Thanks for your help with this -- these policies are exactly what I was looking for!

However, I seem to be missing at least one document: SOP-SEC 10-07 ("Use of Discretion", referenced in 10-20). I am in receipt of the following:

- * 10-01 through 10-06
- * 10-08
- * 10-15
- * 10-17
- * 10-19 through 10-21
- * 10-25

Could you provide me with 10-07 and confirm that with it included, the above list is indeed complete?

Thanks!

Kevin

From: Central Puget Sound Regional Transit Authority

03/22/2018

Subject: RE: Washington Public Records Act Request: soundtransit fare enforcement manuals and policies

Email

Thank you for your email. We have our security staff looking into this and should have an update for you within 2 weeks.

Sincerely,

Leigh Tennison
Project Coordinator
Sound Transit
T: 206.903.7104

Connect with us

[Facebook.com/SoundTransit](https://www.facebook.com/SoundTransit/)<<https://www.facebook.com/SoundTransit/>>

[Twitter.com/SoundTransit](https://twitter.com/soundtransit)<<https://twitter.com/soundtransit>>

[cid:image001.png@01D3C1D6.95B11950]

From: Muckrock Staff

04/06/2018

Subject: RE: Washington Public Records Act Request: soundtransit fare enforcement manuals and policies

Email

To Whom It May Concern:

I'm following up on the following Washington Public Records Act request, copied below, and originally submitted on Jan. 13, 2018. You had previously indicated that it would be completed on April 5, 2018. I wanted to check on the status of my request, and to see if there was a new estimated completion date.

Thanks for your help, and let me know if further clarification is needed.

From: Central Puget Sound Regional Transit Authority

04/10/2018

Subject: RE: Washington Public Records Act Request: soundtransit fare enforcement manuals and policies

Email

Thank you for your email. We are continuing to look into this request and should have an update within two weeks.

Sincerely,

Leigh Tennison
Project Coordinator
Sound Transit
T: 206.903.7104

Connect with us

[Facebook.com/SoundTransit](https://www.facebook.com/SoundTransit/)<<https://www.facebook.com/SoundTransit/>>

[Twitter.com/SoundTransit](https://twitter.com/soundtransit)<<https://twitter.com/soundtransit>>

[cid:image002.png@01D3D0D5.00466060]

From: Muckrock Staff

04/25/2018

Subject: RE: Washington Public Records Act Request: soundtransit fare enforcement manuals and policieEmail

To Whom It May Concern:

I'm following up on the following Washington Public Records Act request, copied below, and originally submitted on Jan. 13, 2018. You had previously indicated that it would be completed on April 24, 2018. I wanted to check on the status of my request, and to see if there was a new estimated completion date.

Thanks for your help, and let me know if further clarification is needed.

From: Central Puget Sound Regional Transit Authority

04/25/2018

Subject: RE: Washington Public Records Act Request: soundtransit fare enforcement manuals and policies Muckrock Wallace PD18-030

Email

We have met with security staff and 10-7 is no longer included in the SOPs. It refers to a process used when fare enforcement officers manually issued tickets. This process is now done automatically through the hand held devices and therefore 10-7 is no longer included. The other gaps in the numbering are due to the fact that these numbers were held open for future sections.

This completes our response and we will close this request file.

Sincerely,

Leigh Tennison
Project Coordinator
Sound Transit
T: 206.903.7104

Connect with us

[Facebook.com/SoundTransit](https://www.facebook.com/SoundTransit/)<<https://www.facebook.com/SoundTransit/>>

[Twitter.com/SoundTransit](https://twitter.com/soundtransit)<<https://twitter.com/soundtransit>>

[cid:image002.png@01D3DCB2.C896C5D0]

EXHIBIT B

SOUND TRANSIT SECURITY STANDARD OPERATING PROCEDURES

SOP-SEC 10-21 ORCA Cards Page 1 of 5

Effective: 06-01-2017

Supersedes: All other editions

Issuing Office: SECURITY DIVISION-FARE ENFORCEMENT

FARE ENFORCEMENT SOP: ORCA Cards and ORCA Application

1.0 PURPOSE:

This directive establishes the Standard Operating Procedure regarding inspections where fare media is presented in the form of an ORCA Card. This SOP is to be used by the Fare Enforcement Division of Sound Transit in the accomplishment of its assigned responsibilities. This SOP defines the basics of inspections where proof of payment is presented in the form of an ORCA Card used by the passengers. There are numerous other SOPs that specifically address other procedures that are related to this SOP.

2.0 SCOPE:

This directive applies to all Securitas Employees assigned to the Sound Transit contract/Fare Enforcement Division.

3.0 DEFINITIONS:

- a. **FEO** – Fare Enforcement Officer.
- b. **Fare Media** – Valid proof of payment that is approved by Sound Transit and presented by passengers.
- c. **Proof of payment** – means evidence of fare prepayment authorized by a regional transit authority for the use of its facilities.
- d. **DAL** – This is the daily activity log that is completed by all FEOs.
- e. **TVM** – Ticket Vending Machine.
- f. **ORCA Readers** – The yellow platform mounted ORCA Readers on which passengers tap their ORCA Cards.
- g. **ORCA Card** – A plastic card that has an electronic chip that is used for fare payment.
- h. **LRV** – A single car that is part of a LINK light rail train.
- i. **Valid Pass** – A pass may be loaded on an ORCA Card.
- j. **E-Purse** – A purse in which passengers may store funds on the ORCA Card for use similar to a debit card.
- k. **RRFP** – Regional Reduced Fare Permit, issued by King County identifying the holder as being eligible for reduced rate fare.
- l. **Handheld** – Panasonic Handheld Tablet FZ-X1; Android based handheld computer.
- m. **Orca Inspection Application** – Mobile application used to inspect Orca cards as valid proof of payment: *also "Orca App"*.
- n. **Officer** – The name of the software application on the handheld used to issue infractions.
- o. **Tap** – When an ORCA card is validated by the platform reader: *also "tapped"*

4.0 AUTHORITY:

Fare Inspections are authorized by Sound Transit Board Policy and the Revised Code of Washington (RCW). The ORCA Card is used by passengers and is the most common form of fare media. If an ORCA Card has a valid pass, it still must be tapped on and off at the platform readers to show proof of payment. If the ORCA Card has a valid pass and is not tapped, this constitutes a violation of the Proof of Payment section of RCW 81.112.220. If the ORCA card has an E-purse and is not tapped or has no value loaded on it, this constitutes a violation of failure to pay fare section of RCW 81.112.210.

- a. **RCW 7.80.040** – Enforcement Officer defined.
- b. **RCW 7.80.050** – Notice of Infraction.
- c. **RCW 7.80.060** – Person Receiving Notice-Identification and Detention.
- d. **RCW 81.112.210** – Fare Payment-Fines and Penalties Established-Enforcement\
- e. **RCW 81.112.220** – Fare Payment-Proof of Payment-Civil Infractions.
- f. **RCW 81.112.230** – Fare Payment-Prosecution for Theft, Trespass, or other Charges.

SOUND TRANSIT SECURITY STANDARD OPERATING PROCEDURES

SOP-SEC 10-21 ORCA Cards

Page 2 of 5

Effective: **06-01-2017**

Supersedes: All other editions

Issuing Office: SECURITY DIVISION-FARE ENFORCEMENT

5.0 BASIC PROCEDURE FOR INSPECTION OF AN ORCA CARD

When a passenger presents an ORCA Card to the FEO:

- a. The FEO will inspect the face of the ORCA Card to ensure that it is not of a type bearing a photo or name of the owner. Once the FEO has seen the face of the ORCA Card and established that it is either of a type not bearing a face or name, or is being presented by the rightful owner, the FEO will scan the ORCA Card with their handheld Orca App to determine if the card was tapped prior to boarding (tapped on).
 1. If the ORCA Card does not belong to the individual presenting the card, the FEO will follow SOP-SEC 10-03 5.0 B and SOP-SEC 10-15
- b. If the card validates green, this indicates a valid card that was tapped on and the FEO will move on to the next passenger.
- c. If the card does not validate green, but instead shows red (not tapped), the FEO will do the following:
 1. Review the screen to determine when and where the card was last used
 2. Determine if there is a valid pass loaded on the card.
 3. Determine the quantity of funds, if any, loaded into the E-purse loaded on the card.
 4. Open the "Trip Log" to determine the last time the card was tapped on and where, and the passenger's history of ORCA Card use.
- d. Inform the passenger that their card did not register a tap prior to boarding.
- e. Ask the passenger to present identification.
- f. Record their identifying information by scanning the violators ID card or entering the information manually using the Officer application.
 1. The ORCA Card may be photographed to record the registration number.
- g. Explain the proper use of the ORCA Card to the passenger.
 - a. The FEO will ensure that the passenger understands, at a minimum, that ORCA Cards must be tapped both prior to boarding and subsequent to exiting the LRV to show proof of payment, even if it has a valid pass on the card, and that it is important to read the top line of the ORCA Reader display screen for messages relating to the tap being received by the system.
- h. Explain to the passenger that failure to tap their card may result in a \$124 citation.
- i. Explain to the passenger that you are recording their identification information for future reference.
 1. If they have not been contacted before, they will be entered into the warning log for future reference.
 2. If they have been contacted before, they may receive a citation.
- j. If upon being contacted for presenting an untapped ORCA Card, the passenger advises the FEO that the platform ORCA Readers at their originating station were faulty, the FEO will do the following:

SOUND TRANSIT SECURITY STANDARD OPERATING PROCEDURES

SOP-SEC 10-21

ORCA Cards

Page 3 of 5

Effective: 06-01-2017

Supersedes: All other editions

Issuing Office: SECURITY DIVISION-FARE ENFORCEMENT

- a. The FEO will document the passenger's identifying information as normal using the Officer App.
- b. The FEO will contact SOC to confirm the outage. If an outage is verified (by the 360 log or known outage) the FEO will not document the contact.
- c. If the equipment is functioning as normal and there is no record of a malfunction at the time that the passenger said to have boarded the LRV, the passenger will be handled as SOP-SEC 10-03 and SOP-SEC 10-04 direct.
- d. If the equipment is later found to be malfunctioning at the time the passenger is said to have boarded. The FEO will submit a void request for the citation or warning issued at the time of contact.

FEOs are able to verify claims of malfunctioning equipment by a variety of means, including checking with the SOC, checking the 360 log and emails, and visiting the station in question. If the FEO finds the equipment to be malfunctioning, they will notify the SOC and ensure that a 360 is entered.

It is critical that the FEO perform all the above steps when inspecting ORCA Cards. When a passenger has a valid pass loaded on the card, they have actually paid for the pass, but if they haven't tapped, they haven't provided proof of payment for that trip. The investigation the FEO conducts is important for the Notice of Infraction and in the event it becomes a future theft of services case. Be sure to document all investigation information in command center and/or using the Officer App.

6.0 FOLLOW-UP OF AN ORCA NON-TAPPED CARD

- a. Upon returning to the office, the FEO will follow-up the contact by verifying any relevant information.
- b. The 360 facility log will be checked in cases where the passenger claimed the platform reader was malfunctioning.
- c. Any additional information gained from the follow-up will be noted in command center and/or using the Officer App.

ORCA Cards are unique in that they may have numerous issues related to their use. Not all passengers understand the ORCA system and the FEO will thoroughly educate them on how the system works. It is not sufficient to simply say, "You did not tap." More detailed information will be collected from the investigation of the contact and provided as part of the court packet through notes added in the command center and/or using the Officer App.

7.0 ORCA APPLICATION:

The installed Orca Inspection App is intended for FEOs to inspect ORCA cards on the Link Light Rail and Sounder Commuter Rail. The App is designed to show if a passenger's ORCA card was validated properly prior to boarding the LRV or Sounder.

- a. When an ORCA card is presented, the FEO will scan the ORCA card just above the screen with their handheld device.
 1. If the ORCA card was properly validated the screen will display green. The bottom of the screen will also read "ST Light Rail" or "ST Sounder" and a station name. *Example below Left*
 3. If the ORCA card was not properly validated the screen will display red. *Example below Right*
 4. FEOs may also inspect the ORCA cards previous tags, by swiping to the left after inspecting an ORCA card and then swiping to the left displaying the "Ride Log".

SOUND TRANSIT SECURITY STANDARD OPERATING PROCEDURES

SOP-SEC 10-21

ORCA Cards

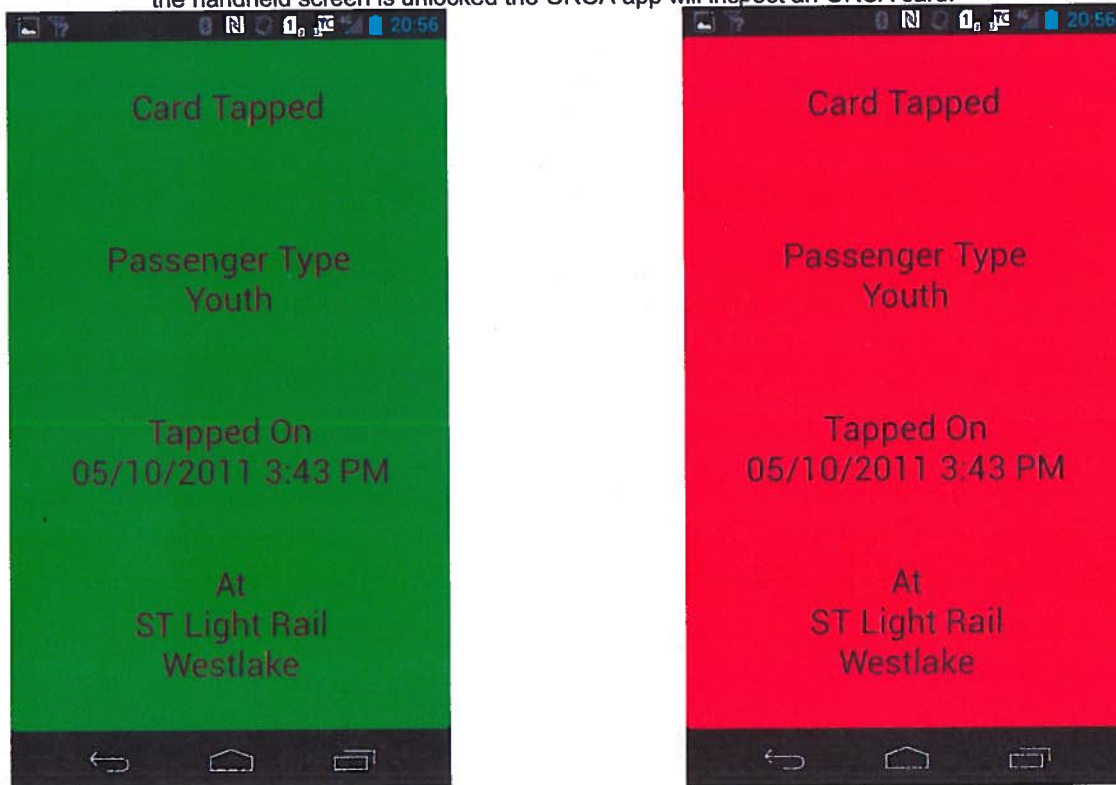
Page 4 of 5

Effective: 06-01-2017

Supersedes: All other editions

Issuing Office: SECURITY DIVISION-FARE ENFORCEMENT

5. FEOs may swipe left again to display the "Revalue Log". This will show the last time the ORCA card was loaded with funds or a pass.
6. The ORCA app does not need to be the current active application to inspect an ORCA card. If the handheld screen is unlocked the ORCA app will inspect an ORCA card.



- b. The FEO must determine if the ORCA card contains a Pass, Funds, is blocked or is blank (No Funds Loaded). To display the "Card Details", the FEO must swipe to the right after scanning an ORCA Card.
 1. ORCA cards loaded with a Pass will display "Business Card Account" Example below Left
 2. ORCA cards loaded with Funds will display "Non-Business Account Card" Example below Middle
 3. A blocked ORCA card will display "Blocked" Example below Right

SOUND TRANSIT SECURITY STANDARD OPERATING PROCEDURES

SOP-SEC 10-21

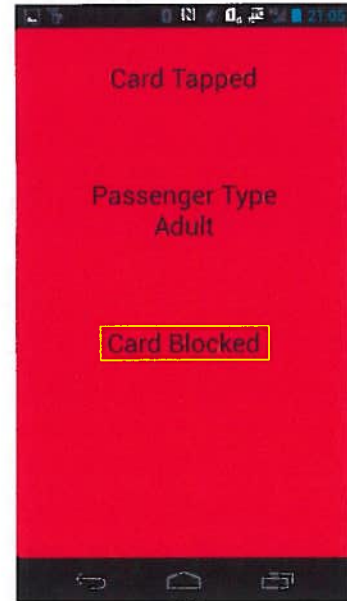
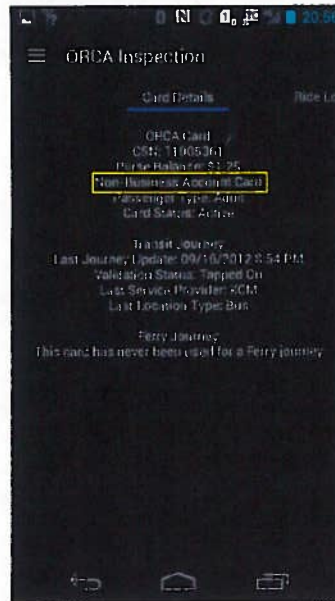
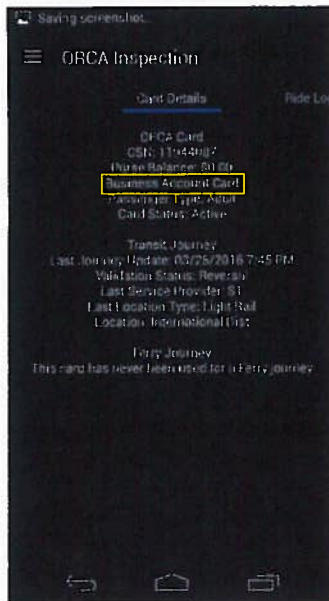
ORCA Cards

Page 5 of 5

Effective: **06-01-2017**

Supersedes: All other editions

Issuing Office: SECURITY DIVISION-FARE ENFORCEMENT



8.0 REVIEW:

The Director of Public Safety or Delegate will ensure all Directives, Policies, and Procedures are reviewed at least annually to ensure compliance with ST Security Division policy. Directives, Policies, and Procedures will be updated immediately if division procedure changes or when a facility adds or deletes post positions or procedures and duties.

9.0 SUPERSESSON:

First Edition 02-15-2011, Second Edition 02-28-2013

10.0 EFFECTIVE DATE: **06-01-2017**

ISSUING AUTHORITY:



Kenneth Cummins
Director of Public Safety

EXHIBIT C

SOUND TRANSIT SECURITY STANDARD OPERATING PROCEDURES

SOP-SEC 10-20 Non-Discrimination PAGE 1 of 4

Effective: 06-01-2017

Supersedes: First Edition 11-01-2010

Issuing Office: SECURITY DIVISION-FARE ENFORCEMENT

FARE ENFORCEMENT SOP: NON-DISCRIMINATION

1.0 PURPOSE:

This directive establishes the Standard Operating Procedure regarding Non-Discrimination to be used by the Fare Enforcement Division of Sound Transit in the accomplishment of its assigned responsibilities. This SOP defines the basic responsibilities of the FEOs and the FE Supervisor. It outlines how Fare Inspections are monitored to assure discrimination does not occur. Details on how to do On Board Train Inspections and Fare Inspection Techniques are outlined in SOP-SEC 10-01 and 10-02. Details on Issuing a Warning or Citation are outlined in SOP-SEC 10-03 and 10-04. Use of Discretion is further outlined in SOP-SEC 10-07.

The purpose of this specific SOP on Non-Discrimination delineates how the other related SOPs are monitored in relationship to FEO discretion and fair treatment of all passengers.

2.0 SCOPE:

This directive applies to all Securitas Employees assigned to the Sound Transit contract/Fare Enforcement Division.

3.0 DEFINITIONS:

- a. **FEO** – Fare Enforcement Officer.
- b. **LRV** – Light Rail Vehicle
- c. **Sounder** – Heavy Rail Commuter Train
- d. **Violator** – A passenger without proof of payment, or who refuses to present proof of payment.
- e. **DAL** – FEO's Daily Activity Log
- f. **Tap** – When an ORCA card is validated by the platform reader
- g. **SOC** – Sound Transit Security Operations Center
- h. **Proof of payment** – means evidence of fare prepayment authorized by a regional transit authority for the use of its facilities
- i. **Handheld**– Panasonic Handheld Tablet FZ-X1; Android based handheld computer
- j. **CC** – 'Command Center' Web based data management back office where citation, warning information is managed

4.0 AUTHORITY:

It is the policy of Sound Transit to prevent discrimination by treating every passenger with respect and dignity including those passengers without proof of payment. FEOs will not discriminate based on Age, Race, Religion, Gender, Physical Disability or Economic Status. The success of the Fare Inspection Program is dependent upon a fair and consistent approach by all FEOs when contacting passengers.

5.0 NON-DISCRIMINATION- FEO Responsibilities

- a. FEOs shall conduct inspections for all passengers on board the train.
- b. When typical platform inspections are conducted, they will include all passengers.
- c. When a passenger without proof of payment is contacted, the FEO will stop inspection until the violator is identified or wait to identify them after they disembark the train.

SOUND TRANSIT SECURITY STANDARD OPERATING PROCEDURES

SOP-SEC 10-20 Non-Discrimination PAGE 2 of 4

Effective: 06-01-2017

Supersedes: First Edition 11-01-2010

Issuing Office: SECURITY DIVISION-FARE ENFORCEMENT

- d. A violator **without** previous contact that is cooperative will be handled as follows:
 - 1. The violator will be given a warning and educated on the requirements to have proof of payment. If the violation is intentional, the violator will be issued a citation.

See SOP – SEC 10-03 section 5.0 B Intentional Fare Evasion.

 - 2. The violator's identification information will be documented using the handheld device.
 - 3. The violator will be informed that if no previous contact exists and the violation was not intentional fare evasion, they will be issued a warning. If previous contacts are present after completing a repeat offense check, or the violation is intentional, they may receive a citation.
 - 4. The violator may be asked to exit the train at the next station to purchase proof of payment (this does not apply on the Sounder).
- e. A violator who is not cooperative, who presented fraudulent or altered fare media, who has been contacted before or by the circumstances are determined to be an intentional violator, will be handled as follows:
 - 1. The violator will be issued a citation. (See SOP-SEC 10-03)
 - 2. The violator may be directed to exit the train at the next station to purchase proof of payment (does not apply on the Sounder).
 - 3. The FEO will provide notes along prior to printing the court packet, articulating why this violator was issued a citation rather than warning. The notes will be factual information to establish the elements of fare evasion.
- f. If the passenger has no identification or refuses to present identification they will be asked to verbally identify themselves and to provide corroborating documentation.
 - a. When a violator is unwilling to present identification or otherwise identify themselves, the FEO will contact King County Metro Dispatch for Police assistance.
 - b. When a violator is cooperative but is unable to present identification or verbally identify themselves and provide corroborating documentation, the FEO will contact King County Metro Dispatch for Police assistance.
 - c. When a violator is cooperative and is able to verbally identify themselves and provide corroborating documentation, the FEO may contact King County Metro Dispatch for Police assistance.
- g. Passengers without proof of payment may be escorted off the train at the next stop to purchase proof of payment and if they have not provided identification, await a police response (**Generally passengers should not be removed from the Sounder**).
- h. All passengers inspected, violators given warnings and violators issued citations will be listed on the DAL.
- i. When a violator has two issued citations or, one or multiple Theft charges in the last twelve months, the FEO will contact Sound Transit Police to file Theft charges (See SOP-SEC 10-05).

6.0 NON-DISCRIMINATION - FE Supervisor Responsibilities

- a. Supervisors will review each DAL completed by the FEO.

SOUND TRANSIT SECURITY STANDARD OPERATING PROCEDURES

SOP-SEC 10-20 Non-Discrimination PAGE 3 of 4

Effective: **06-01-2017**

Supersedes: First Edition 11-01-2010

Issuing Office: SECURITY DIVISION-FARE ENFORCEMENT

- b. Using CC the Supervisor will do a search of each FEOs daily warnings to ensure a violator has not been issued numerous times.
- c. If the violator has been previously warned and is entered again as a warning, the Supervisor will discuss the contact with the FEO to determine why a citation was not issued. The FEO must add a not to CC identifying why the violator was issued a second warning.
 - 1. ORCA cards are unique in that they may contain a monthly pass that has already been paid. If the passenger did not tap their card, they have not provided proof of payment. However, discretion may be used in this circumstance to issue a second warning.
- d. When a passenger has been issued a citation the Supervisor will review the violation in CC reviewing any notes added, the citation copy and the affidavit completed by the FEO.
 - 1. Notes added and the affidavit will articulate the complete details of the contact.
 - 2. All confiscated fare media will be photographed using the handheld and provided as evidence for the citation.
- e. If a citation has been issued that is not justified based on Fare Enforcement SOP, it will be voided by the FEO at the direction of the Supervisor.
- f. Monitoring the discretion of the individual FEO is a principle responsibility of the Supervisor to assure discrimination does not occur.
- g. **If it is suspected that any FEO is discriminating or not being consistent in their treatment of passengers, a thorough investigation will ensue. If it is determined, as a result of the investigation, that the FEO was discriminating or treating passengers disparately, this will result in disciplinary action up to and including removal from the contract with Sound Transit.**

7.0 REVIEW:

The Director of Public Safety or Delegate will ensure all Directives, Policies, and Procedures are reviewed at least annually to ensure compliance with ST Security Division policy. Directives, Policies, and Procedures will be updated immediately if division procedure changes or when a facility adds or deletes post positions or procedures and duties.

8.0 SUPERSESSION: First Edition 11-01-2010

9.0 EFFECTIVE DATE: 06-01-2017

ISSUING AUTHORITY



Kenneth Cummins
Director of Public Safety

EXHIBIT D

From: Kevin Wallace

05/05/2018

Subject: Washington Public Records Act Request: Fare Enforcement Apps

Email

To Whom It May Concern:

Pursuant to the Washington Public Records Act, I hereby request the following records:

A copy of the latest version of each of the following applications used on Fare Enforcement handheld devices:

- Orca Inspection
- Officer Android

The requested records will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 5 business days, as the statute requires.

Sincerely,

Kevin Wallace

From: Central Puget Sound Regional Transit Authority

05/11/2018

Subject: Muckrock Wallace PD18-237

Email

DRAFT-for your approval. This is due today or Monday at the latest. We don't have an "officer android" app. The ORCA Inspection is an android app.

This will acknowledge your request for a copy of the latest version of each of the following applications used on fare enforcement handheld devices:

- ORCA Inspection
- Officer Android

We received your request on May 7, 2018.

The application used to scan ORCA cards is called "ORCA Inspection." It is an Android version. We are unable to provide you with this app because it is exempt under RCW 42.56.270(1). This completes our response and we will close this request file.

Sincerely,

Leigh Tennison
Project Coordinator
Sound Transit
T: 206.903.7104

Connect with us

[Facebook.com/SoundTransit](https://www.facebook.com/SoundTransit/)<<https://www.facebook.com/SoundTransit/>>

[Twitter.com/SoundTransit](https://twitter.com/soundtransit)<<https://twitter.com/soundtransit>>

[cid:image003.png@01D3E91D.57443E90]

From: Kevin Wallace

05/11/2018

Subject: RE: Washington Public Records Act Request: Fare Enforcement Apps

Email

Thank you for the response.

I appeal. RCW 42.56.270(1) only exempts disclosure of software when such disclosure "would produce private gain and public loss" which is not the case here -- the released records are being made available to the public. They are being requested in the interest of increased transparency around the fare enforcement process, not for private gain of any kind. On 4/25, in response to request PD18-030, you indicated to me that fare enforcement policy SOP-SEC 10-07 has been superseded by a process in the application that I am now requesting. Fare enforcement policy is a matter of public record, even when it's embodied in software.

If "Officer Android" does not exist, I am happy to exclude it from my request. However, SOP-SEC 10-17 ("FARE ENFORCEMENT SOP: PANASONIC HANDHELD TABLET FZ-X1") indicates that it is policy to install an application with this name on all fare enforcement handheld devices.

Thanks

Kevin

From: Central Puget Sound Regional Transit Authority

[05/14/2018](#)

Subject: RE: Washington Public Records Act Request: Fare Enforcement Apps

Email

Mr. Wallace~

On Friday, May 11, 2018, Leigh Tennison inadvertently sent you a draft email intended for my review and did not intend to send you the draft email below. I am reviewing this file and doing additional research. My initial review reveals the document you requested does not fall under the exemption reflected in Ms. Tennison's email. I will need additional time to review and will get back to you shortly. I just wanted you to know that I received your email and I am working on your request.

Sincerely,

Q'Deene Nagasawa

Q'Deene Nagasawa
Paralegal | Public Records Officer
Legal Department
Sound Transit
401 South Jackson
Seattle, WA 98104
(206) 689-4924
Fax: (206) 398-5222

Connect with us

[facebook.com/SoundTransit](https://www.facebook.com/SoundTransit)<<http://www.facebook.com/SoundTransit>>

[twitter.com/SoundTransit](https://www.twitter.com/SoundTransit)<<http://www.twitter.com/SoundTransit>>

[cid:image001.png@01CFB081.D1850820]

From: Muckrock Staff

06/11/2018

Subject: RE: Washington Public Records Act Request: Fare Enforcement Apps

Email

To Whom It May Concern:

I wanted to follow up on the following Washington Public Records Act request, copied below, and originally submitted on May 5, 2018. Please let me know when I can expect to receive a response, or if further clarification is needed.

Thanks for your help, and let me know if further clarification is needed.

From: Central Puget Sound Regional Transit Authority

06/11/2018

Subject: RE: Washington Public Records Act Request: Fare Enforcement Apps

Email

Mr. Wallace~

We will need additional time to respond to your request. We need to proceed with the third party notice process. We expect this process to take an additional 3 to 4 weeks. We will contact you when that has been completed.

Thank you.

Q'Deene Nagasawa

Q'Deene Nagasawa
Paralegal | Public Records Officer
Legal Department
Sound Transit
401 South Jackson
Seattle, WA 98104
(206) 689-4924
Fax: (206) 398-5222

Connect with us

[facebook.com/SoundTransit](https://www.facebook.com/SoundTransit)<<http://www.facebook.com/SoundTransit>>

[twitter.com/SoundTransit](https://www.twitter.com/SoundTransit)<<http://www.twitter.com/SoundTransit>>

[cid:image001.png@01CFB081.D1850820]

From: Muckrock Staff

07/23/2018

Subject: RE: Washington Public Records Act Request: Fare Enforcement Apps

Email

To Whom It May Concern:

I'm following up on the following Washington Public Records Act request, copied below, and originally submitted on May 5, 2018. You had previously indicated that it would be completed on July 9, 2018. I wanted to check on the status of my request, and to see if there was a new estimated completion date.

Thanks for your help, and let me know if further clarification is needed.

From: Central Puget Sound Regional Transit Authority

07/23/2018

Subject: RE: Washington Public Records Act Request: Fare Enforcement Apps

Email

This is to provide you with a status of your request. The third party has requested and we have extended the time for the third party to obtain a temporary restraining order for an additional 2 weeks. We will contact you again in 2 weeks.

Please let me know if you have any questions.

Sincerely,
Q'Deene Nagasawa

Q'Deene Nagasawa
Paralegal | Public Records Officer
Legal Department
Sound Transit
401 South Jackson
Seattle, WA 98104
(206) 689-4924
Fax: (206) 398-5222

Connect with us

[facebook.com/SoundTransit](https://www.facebook.com/SoundTransit)<<http://www.facebook.com/SoundTransit>>

[twitter.com/SoundTransit](https://www.twitter.com/SoundTransit)<<http://www.twitter.com/SoundTransit>>

[cid:image001.png@01CFB081.D1850820]

From: Kevin Wallace

07/23/2018

Subject: RE: Washington Public Records Act Request: Fare Enforcement Apps

Email

Thank you for the response.

Are you able to provide me with the name of the third party at this time?

If the third party does succeed in obtaining a TRO, I request that you ensure the requested records are not destroyed, pursuant to RCW 42.56.100, while I explore possible remedies under RCW 42.56.550 or other relevant statutes.

Thanks,

Kevin

From: Muckrock Staff

08/07/2018

Subject: RE: Washington Public Records Act Request: Fare Enforcement Apps

Email

To Whom It May Concern:

I'm following up on the following Washington Public Records Act request, copied below, and originally submitted on May 5, 2018. You had previously indicated that it would be completed on Aug. 6, 2018. I wanted to check on the status of my request, and to see if there was a new estimated completion date.

Thanks for your help, and let me know if further clarification is needed.

From: Central Puget Sound Regional Transit Authority

08/13/2018

Subject: Vix Technology USA, Inc v. Sound Transit

Email

Dear Mr. Wallace:

I am Senior Legal Counsel for Sound Transit. As Q"Deene Nasagawa informed you, Vix Technology U.S.A., Inc. has initiated litigation seeking to enjoin Sound Transit from producing certain documents that would otherwise be responsive to one of your public disclosure requests. Copies of the pleadings filed thus far are attached for your convenience. Please be advised that in

light of the pending litigation, Sound Transit will take no further action on your public disclosure request until the Court has ruled on Vix's motions.

If you have any questions of Sound Transit in this regard, please contact the undersigned.

James E. Niemer
Senior Legal Counsel
Sound Transit
(206)398-5162

The information contained in this email is intended only for the personal and confidential use of the recipient(s) named above. This message may be an attorney-client communication and as such is privileged and confidential. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any dissemination, distribution or copying of this message is strictly prohibited. If you have received this communication in error, please notify this Agency immediately by email, and delete the original message.